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10 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
11 **FOR THE BUREAU OF VOCATIONAL NURSING**
AND PSYCHIATRIC TECHNICIANS
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. VN-2007-1329

14 MISTI KATHRYNE VEST
3903 Pierce Street, Apt. 295
15 Riverside, California 92505

ACCUSATION

16 Vocational Nurse License No. VN 220451

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

- 21 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this
22 Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational
23 Nursing and Psychiatric Technicians ("Bureau"), Department of Consumer Affairs.
24 2. On or about April 28, 2006, the Bureau issued Vocational Nurse License
25 Number VN 220451 to Misti Kathryne Vest ("Respondent"). Respondent's vocational nurse
26 license was in full force and effect at all times relevant to the charges brought herein and will
27 expire on October 31, 2009, unless renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

5. Code section 2878 states, in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct . . .

....

(i) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee . . .

6. Code section 2878.5 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022 . . .

7. Code section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

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1 (b) Any device that bears the statement: "Caution: federal law restricts this
2 device to sale by or on the order of a ----," "Rx only," or words of similar
3 import, the blank to be filled in with the designation of the practitioner licensed to
4 use or order use of the device.

5 (c) Any other drug or device that by federal or state law can be lawfully
6 dispensed only on prescription or furnished pursuant to Section 4006.

7 8. Code section 22, subdivision (a), states:

8 "Board" as used in any provision of this Code, refers to the board in
9 which the administration of the provision is vested, and unless otherwise expressly
10 provided, shall include "bureau," "commission," "committee," "department,"
11 "division," "examining committee," "program," and "agency."

12 COST RECOVERY

13 9. Code section 125.3 provides, in pertinent part, that the Board may request
14 the administrative law judge to direct a licensee found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 DANGEROUS DRUG AT ISSUE

18 10. "Ultram", a brand of tramadol hydrochloride, is a dangerous drug within
19 the meaning of Business and Professions Code section 4022 in that it requires a prescription
20 under federal law.

21 FIRST CAUSE FOR DISCIPLINE

22 (Dishonest Act)

23 11. Respondent is subject to disciplinary action pursuant to Code section
24 2878, subdivision (j), in that on or about August 13, 2007, while employed as a licensed
25 vocational nurse at the California Rehabilitation Center, Norco, California, a facility of the
26 California Department of Corrections and Rehabilitation, Respondent committed an act
27 involving dishonesty, as follows: Respondent stole or took six Ultram pills from the Unit E pill
28 room at the rehabilitation center for her personal use, then self-administered two of the tablets.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Self-Administration of a Dangerous Drug)**

3 12. Respondent is subject to disciplinary action pursuant to Code section
4 2878, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section
5 2878.5, subdivision (a), in that on or about August 13, 2007, while employed as a licensed
6 vocational nurse at the California Rehabilitation Center, Norco, California, a facility of the
7 California Department of Corrections and Rehabilitation, Respondent self-administered two
8 Ultram pills without lawful authority therefor, as set forth in paragraph 11 above.

9 **PRAAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein
11 alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

12 1. Revoking or suspending Vocational Nurse License Number VN 220451,
13 issued to Misti Kathryn Vest;

14 2. Ordering Misti Kathryn Vest to pay the Bureau of Vocational Nursing
15 and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this
16 case, pursuant to Business and Professions Code section 125.3;

17 3. Taking such other and further action as deemed necessary and proper.

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19 DATED: November 18, 2008

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22 TERESA BELLO-JONES, J.D., M.S.N., R.N.

23 Executive Officer
24 Bureau of Vocational Nursing and Psychiatric Technicians
25 Department of Consumer Affairs
26 State of California

27 Complainant
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